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William Wells, and Allen Wolff*

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

SIPDA REVOCABLE TRUST, by Trenton
J. Warner, Trustee, on behalf of itself and all
others similarly situated,

Plaintiffs,

v.

THE PARKING REIT, INC., MICHAEL V.
SHUSTEK, ROBERT J. AALBERTS,
DAVID CHAVEZ, JOHN E. DAWSON,
SHAWN NELSON, NICHOLAS NILSEN,
WILLIAM WELLS and ALLEN WOLFF,

Defendants.

CASE NO. 2:19-cv-00428-APG-BNW

**UNOPPOSED MOTION FOR LEAVE TO
SUBMIT SUPPLEMENTAL AUTHORITY IN
CONNECTION WITH PENDING
DISMISSAL MOTION**

ORDER

1 Defendants The Parking REIT, Inc. (“TPR” or the “Company”) and the Independent
2 Directors (Aalberts, Chavez, Dawson, Nelson, Nilsen, Wells, and Wolff, and collectively with TPR,
3 the “TPR Defendants”), through counsel and pursuant to Local Rule 7-2(g), move for leave of Court
4 to submit a copy of the June 25, 2020 decision by the United States Court of Appeals for the Eleventh
5 Circuit in *Freedman v. magicJack Vocaltec, Ltd.*, __ F.3d __, 2020 WL 3467396 (11th Cir. 2020)
6 as supplemental authority relevant to their pending motion to dismiss. For this motion, the TPR
7 Defendants state as follows:

8 1. On January 9, 2020, the TPR Defendants filed a motion to dismiss (the “Dismissal
9 Motion,” ECF No. 38) as to plaintiff’s first amended complaint (the “FAC,” ECF No. 32).

10 2. On May 5, 2020, the TPR Defendants filed a reply memorandum (the “Reply,” ECF
11 No. 58) in connection with that Dismissal Motion.

12 3. In both the Dismissal Motion and the Reply, the TPR Defendants cited the District
13 Court decision of *Freedman v. magicJack Vocaltec, Ltd.*, 2018 WL 6110996 (S.D. Fla. Nov. 21,
14 2018) as support for the propositions that plaintiff in this case has not pled a viable direct stockholder
15 claim and that the matters alleged in the FAC are derivative in nature. *See* Dismissal Motion, ECF
16 No. 38, at 11-12; Reply, ECF No. 58, at 3.

17 4. The TPR Defendants’ dismissal papers also noted that an appeal had been filed in
18 *Freedman* and that the appeal was then pending.

19 5. On June 25, 2020, in a published opinion, the United States Court of Appeals for the
20 Eleventh Circuit issued its decision in the appeal and affirmed. A copy of the Eleventh Circuit’s
21 decision in *Freedman v. magicJack Vocaltec, Ltd.*, __ F.3d __, 2020 WL 3467396 (11th Cir. 2020)
22 is attached hereto as Exhibit 1. The Eleventh Circuit’s recent decision is supplemental authority for
23 the TPR Defendants’ Dismissal Motion and was not available when the TPR Defendants’ prior
24 papers were filed.

25 6. The TPR Defendants respectfully request leave to submit the attached published
26 opinion of the Eleventh Circuit in *Freedman v. magicJack Vocaltec, Ltd.*, __ F.3d __, 2020 WL
27 3467396 (11th Cir. 2020) as supplemental authority.

7. Counsel for the TPR Defendants has inquired of counsel for all other parties and been informed that there is no opposition to this Court granting leave to the TPR Defendants for the submission of the Eleventh Circuit's recent decision in *Freedman*.

Dated: July 14, 2020

/s/ Ogonna M. Brown

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IT IS SO ORDERED



United States District Judge

Dated: July 17, 2020.